

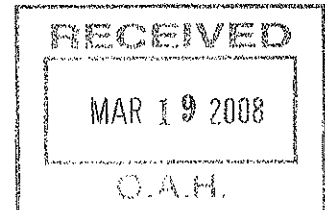


ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini
Superintendent of Financial Institutions

Janet Napolitano
Governor

March 18, 2008



VIA CERTIFIED MAIL and PERSONAL SERVICE

Lisa Gorney
18202 N. 56th Street
Glendale, AZ 85308

Reference: Docket # 08F-BD045-BNK/ Lisa Gorney

Dear Ms. Gorney:

Please find the enclosed formal Notice of Hearing and Intent to Remove and Prohibit. The hearing is scheduled for **April 30, 2008, at 9:00 a.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact **Assistant Attorney General Craig Raby** at (602) 542-8889 with any questions.

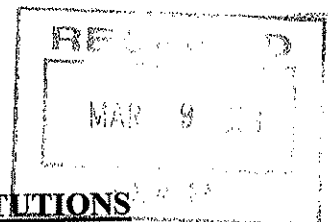
Very truly yours,

Robert D. Charlton
Assistant Superintendent

RDC:sl1

Enclosures

cc: Craig Raby, Assistant Attorney General



ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Removal and Prohibition
of:

No. 08F-BD045-BNK

LISA GORNEY
18202 N. 56th Drive
Glendale, AZ 85308

Respondent.

**NOTICE OF HEARING AND INTENT
TO REMOVE AND PROHIBIT FROM
FURTHER PARTICIPATION IN ANY
MANNER IN THE CONDUCT OF THE
AFFAIRS OF A FINANCIAL
INSTITUTION OR ENTERPRISE**

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138, 6-161, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for April 30, 2008, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine whether grounds exist to remove or prohibit Respondent from further participation in any manner in the conduct of the affairs of a financial institution or enterprise pursuant to A.R.S. §§ 6-161(A), (B), and (C), and to prohibit Respondent, after a removal order has become final, from further participation in any manner as a director, officer, employee, agent or other person in the conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-161(E).

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Michael Wales, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final

1 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
2 Judge is specifically prohibited from entering.

3 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
4 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
5 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
6 Administrative Hearings.

7 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
8 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
9 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
10 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
11 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
12 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

13 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
14 made by a court reporter or by electronic means. Any party that requests a transcript of the
15 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

16 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
17 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

18 **NOTICE OF APPLICABLE RULES**

19 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
20 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
21 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
22 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
23 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
24 R2-19-122. A copy of these rules is enclosed.

25 Pursuant to A.A.C. R20-4-1209, Respondent shall file a written answer **within twenty (20)**
26 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondent's

1 position or defense and shall specifically admit or deny each of the assertions contained in this
2 Notice of Hearing. If the answering Respondent is without or is unable to reasonably obtain
3 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondent shall
4 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
5 When Respondent intends to deny only a part or a qualification of an assertion, or to qualify an
6 assertion, Respondent shall expressly admit so much of it as is true and shall deny the remainder.
7 Any defense not raised in the answer is deemed waived.

8 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondent will be**
9 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
10 true and admitted and the Superintendent may take whatever action is appropriate pursuant to A.R.S.
11 §§ 6-123, 6-131 and 6-161(B).

12 Respondent's answer shall be mailed or delivered to the Arizona Department of Financial
13 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
14 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
15 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
16 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

17 **Persons with disabilities may request reasonable accommodations such as interpreters,**
18 **alternative format or assistance with physical accessibility.** Requests for accommodations must
19 be made as early as possible to allow time to arrange the accommodations. If accommodations are
20 required, call the Office of Administrative Hearings at (602) 542-9826.

21 FACTS

22 1. Respondent Lisa Gorney ("Ms. Gorney") was employed as an escrow officer by Premier
23 Title Group ("Premier") from on or about November 1, 2005 to April 6, 2007. Premier is a Division
24 of, and a registered trade name of, Title Security Agency of Arizona ("TSA"), an Arizona
25 corporation.

26 2. TSA is licensed by the Department as an escrow agent, license number EA-0001723.

1 3. Premier discovered a defalcation by Ms. Gorney when they received a call from a
2 customer, complaining that their mortgage loan was not paid off. Upon an initial investigation to
3 determine where the payoff funds went, Premier discovered that Ms. Gorney had been transferring
4 escrow account monies to unrelated escrow files and diverting escrow monies to parties unrelated to
5 loan transactions, by means of signing checks and authorizations to transfer funds.

6 4. On or around March 27, 2007, as a result of the discovery of Ms. Gorney's unlawful
7 conduct, Premier initiated an internal audit of the escrow transactions of Ms. Gorney's entire
8 inventory of escrow files from her employment start date.

9 5. Premier's investigation and audit of Ms. Gorney's escrow files revealed her direct
10 involvement in a defalcation which occurred from on or about January 2, 2006, through March 27,
11 2007, involving a substantial number of escrow files, during which time she used her position as an
12 escrow officer to unlawfully divert escrow funds to unrelated escrow files and individuals. The audit
13 revealed a fraudulent scheme wherein Ms. Gorney failed to pay off mortgage loans with escrow
14 monies, as required, but instead diverted said monies to parties unrelated to the escrow transactions.
15 She consequently diverted escrow monies from unrelated escrow files in an attempt to cover the
16 resulting shortages. The audit further revealed that Ms. Gorney created fictitious escrow files to
17 which she diverted escrow monies from unrelated escrow accounts, and from which she paid off
18 mortgage loans she earlier failed to pay off in other unrelated escrow accounts. Mortgage loans not
19 paid off, due to Ms. Gorney's unlawful conduct, resulted in the borrowers' receipt of default notices
20 from the lenders. Ms. Gorney's diversion and misappropriation of escrow monies represented a loss
21 to Premier totaling at least nine hundred ninety five thousand nine hundred fifty two dollars and
22 eighty three cents (\$995,952.83).

23 6. On April 6, 2007, Premier terminated Ms. Gorney's employment.

24 7. As a result of Ms. Gorney's conduct, on May 24, 2007, TSA filed a Verified Complaint
25 (Breach of the Covenant of Good Faith and Fair Dealing, Breach of Fiduciary Duty, Conversion,
26 Consumer Fraud, Theft/Scheme or Artifice to Defraud) in *Title Security Agency of Arizona v. Lisa*

1 *Gorney, et al.*, Maricopa County Superior Court No. CV2007-009275.

2 8. On October 19, 2007, TSA filed a Motion For Summary Judgment against Ms. Gorney,
3 which was granted pursuant to the Court's Minute Entry filed on December 24, 2007.

4 9. On January 24, 2007, a Judgment was entered by the Court, wherein it awarded TSA
5 judgment in the amount of \$3,118,748.60 against Ms. Gorney, which included trebled compensatory
6 damages totaling \$2,987,858.40, as well as attorneys' fees and costs.

7 LAW

8 1. Pursuant to Title 6, Chapter 7, of the Arizona Revised Statutes, the Superintendent has
9 the authority and duty to regulate all persons engaged in the escrow agent business and with the
10 enforcement of statutes, rules, and regulations relating to escrow agents.

11 2. By the conduct set forth above in the Complaint, Ms. Gorney has violated statutes
12 governing escrow agents as follows:

- 13 a. A.R.S. § 6-834(A) by failing to deposit and maintain all monies deposited in escrow
14 to be delivered on the close of the escrow or on any other contingency in a bank,
15 savings bank or savings and loan association doing business in this state and failing to
16 keep all escrow monies separate, distinct and apart from monies belonging to the
17 escrow agent; and
18 b. A.R.S. § 6-841.01(A) by breaching, as an employee of a licensed escrow agent, a
19 fiduciary duty as a trustee to the owner of all monies received or collected and held in
20 escrow and by knowingly and negligently commingling trust monies with the escrow
21 agent's own monies or with monies held in any other capacity.

22 3. Ms. Gorney's conduct, as set forth above, constitutes acts, omissions, and practices which
23 demonstrate personal dishonesty and unfitness to continue in office or to participate in the conduct
24 of the affairs of any financial institution or enterprise and is grounds for removal and the prohibition
25 of Ms. Gorney from participating in any manner in the conduct of the affairs of any financial
26 institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).

4. Ms. Gorney's violations of A.R.S. §§ 6-834(A) and 6-841.01(A) constitute grounds for the removal and the prohibition of Ms. Gorney from participating in any manner in the conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-161(A)(6).

5. The violations, set forth above, constitute grounds for the Superintendent to order the removal and the prohibition of Ms. Gorney from further participation in any manner as a director, officer, employee, agent or other person in the conduct of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may remove and prohibit Ms. Gorney from further participation in any manner in the conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-161(E) and may order any other remedy necessary or proper for the enforcement of the statutes and rules regulating escrow agents in Arizona pursuant to A.R.S. §§ 6-123, 6-131 and 6-161.

DATED this 18 day of March, 2008.

Felecia A. Rotellini
Superintendent of Financial Institutions

By Robert D. Charlton
Robert D. Charlton
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 18th
day of March, 2008, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan L. Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

...

1 COPY mailed/delivered same date to:

2 Michael Wales, Administrative Law Judge
3 Office of Administrative Hearings
4 1400 W. Washington, Suite 101
5 Phoenix, AZ 85007

6 Craig A. Raby, Assistant Attorney General
7 Office of the Attorney General
8 1275 W. Washington
9 Phoenix, AZ 85007

10 Robert D. Charlton, Assistant Superintendent
11 Arizona Department of Financial Institutions
12 2910 N. 44th Street, Suite 310
13 Phoenix, AZ 85018

14 COPY DELIVERED/SERVED SAME
15 DATE BY PROCESS SERVER, to:

16 Lisa Gorney, #P393782
17 1-L-1-1
18 Estrella Jail
19 2939 W. Durango Street
20 Phoenix, AZ 85009
21 Respondent

22 Lisa Gorney
23 18202 N. 56th Drive
24 Glendale, AZ 85308
25 Respondent
26


146932, PHX-AGN-2007-0480